

CHAPTER 65
BROWNFIELD REDEVELOPMENT PROGRAM

261—65.1(78GA,ch1101) Purpose. The brownfield redevelopment program is designed to provide financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites.

261—65.2(78GA,ch1101) Definitions. When used in this chapter, unless the context otherwise requires:

“*Acquisition*” means the purchase of brownfield property.

“*Advisory council*” means a brownfield redevelopment advisory council as established in 2000 Iowa Acts, chapter 1101, section 4, consisting of five members.

“*Board*” means the Iowa department of economic development board.

“*Brownfield site*” means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed, or is proposed to be included, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.

“*CERCLA*” means Comprehensive Environmental Response, Compensation, and Liability Act as defined at 42 U.S.C. 9601 et seq.

“*Characterization*” means determination of both the nature and extent of contamination in the various media of the environment.

“*Community*” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“*Contaminant*” means any hazardous substance found in the various media of the environment.

“*Department*” or “*IDED*” means the Iowa department of economic development.

“*Fund*” means the brownfield redevelopment fund established pursuant to 2000 Iowa Acts, chapter 1101, section 3.

“*Grant*” means the donation or contribution of funds with no expectation or requirement that the funds be repaid.

“*Hazardous substance*” means “hazardous substance” as defined in 567—Chapter 137 and includes petroleum substances not addressed in 567—Chapter 135.

“*Loan*” means an award of assistance with the requirement that the award be repaid, and with term, interest rate, and any other conditions specified as part of the award. A deferred loan is one for which the payment of principal or interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A loan guarantee is a third-party commitment to repay all or a portion of the loan in the event that the borrower defaults on the loan.

“*Redevelopment*” means projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“*Remediation*” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site. Funding awards used for remediation must comply with appropriate Iowa department of natural resources requirements and guidelines.

“*Risk evaluation*” means assessment of risks to human health and environment by way of guidelines established in 567—Chapter 137.

“*Sponsorship*” means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program in which the city or county agrees to offer assistance or guidance to the applicant. Sponsorship is not required if the applicant is a city or county.

261—65.3(78GA,ch1101) Eligible applicants. To be eligible to apply for program assistance, an applicant must meet the following eligibility requirements:

65.3(1) Site owner. A person owning a site is an eligible applicant if the site for which assistance is sought meets the definition of a brownfield site and the applicant has secured a sponsor prior to applying for program assistance.

65.3(2) *Nonowner of site.* A person who is not an owner of a site is an eligible applicant if the site meets the definition of a brownfield site and the applicant has secured a sponsor prior to applying for program assistance.

65.3(3) *Agreement executed.* Prior to applying for financial assistance under this program, an applicant shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall at a minimum include:

1. The total cost for remediating the site.
2. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.
3. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

261—65.4(78GA,ch1101) Eligible forms of assistance and limitations.

65.4(1) *Financial assistance.* Eligible forms of financial assistance under this program include grants, interest-bearing loans, forgivable loans, loan guarantees, and other forms of assistance under the brownfield redevelopment program established in 2000 Iowa Acts, chapter 1101.

65.4(2) *Technical assistance.* Technical assistance under this program is available in the form of providing an applicant with assistance in identifying alternative forms of assistance for which the applicant may be eligible.

65.4(3) *Limitation on amount.* An applicant shall not receive financial assistance of more than 25 percent of the agreed-upon estimated total cost of remediation, acquisition or redevelopment.

65.4(4) *Exclusions.* Program funds shall not be used for the remediation of contaminants being addressed under Iowa's leaking underground storage tank (UST) program. However, a site's being addressed under the UST program does not necessarily exclude that site from being addressed under the Iowa brownfield redevelopment Act if other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

261—65.5(78GA,ch1101) Repayment to IDED. Upon the subsequent sale of the property by an applicant to a person other than the original owner, the applicant shall repay the department for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance received by the applicant.

261—65.6(78GA,ch1101) Application and award procedures. Subject to availability of funds, applications will be reviewed and rated by IDED staff on an ongoing basis and reviewed quarterly by the advisory council. Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. Recommendations from the advisory council will be submitted to the board. The board may approve, deny or defer an application.

261—65.7(78GA,ch1101) Application contents. An application for assistance shall include, but not be limited to, the following information:

1. A business plan which includes a remediation plan. The business plan should, at a minimum, include a project contact/applying agency, a project overview (which would include the background of the project area, goals and objectives of the project, and implementation strategy), and a project/remediation budget.
2. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

3. Evidence of sponsorship.

261—65.8(78GA,ch1101) Application forms. Application forms for the brownfield redevelopment program shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309. IDED may provide technical assistance as necessary to applicants. IDED staff may conduct on-site evaluations of proposed activities.

261—65.9(78GA,ch1101) Application review criteria. Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed and prioritized based on the following criteria:

1. Whether the project meets the definition of a brownfield site.
2. Whether alternative forms of assistance have been explored and used by the applicant.
3. The level of distress or extent of the problem on the site has been identified.
4. Whether the site is on or proposed to be added to the U.S. Environmental Protection Agency's list of CERCLA sites.
5. The degree to which awards secured from other sources are committed to the subject site.
6. The leveraging of other public and private resources beyond the 75 percent minimum required.
7. Type and terms of assistance requested.
8. Rationale that the project serves a public purpose.
9. The level of economic and physical distress within the project area.
10. Past efforts of the community/owner to resolve the problem.
11. Ability of the applicant to outline the goals and objectives of the project and describe the overall strategy for achieving the goals and objectives.
12. Ancillary off-site development as a result of site remediation.

261—65.10(78GA,ch1101) Administration of awards.

65.10(1) A contract shall be executed between the recipient and IDED. These rules and applicable state laws and regulations shall be part of the contract.

65.10(2) The recipient must execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for the board to terminate the award.

65.10(3) Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

65.10(4) Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

65.10(5) Awards may be conditioned upon IDED's receipt and approval of an implementation plan for the funded activity.

These rules are intended to implement 2000 Iowa Acts, chapter 1101.

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